

Memorandum

To: Steve Kasower
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Department of Water Resources
Post Office Box 942836
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Date: JUN 8 1994

From: Marc Del Piero
STATE WATER RESOURCES CONTROL BOARD
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Subject: REVIEW OF SENATE CONCURRENT RESOLUTION 17 REPORT

We appreciate the opportunity to comment on your May 12, 1994 draft report, "Meeting the Goals of the Water Recycling Act of 1991: An Attainable Future," prepared in response to Senate Concurrent Resolution 17. We have a number of concerns about the report, and have highlighted the most important.

Perhaps most outstanding to us is that there is no discussion at all of the many activities the State Water Resources Control Board (SWRCB) has done and continues to do in support of water reclamation. We would like the following section to be added to the report:

State Water Resources Control Board Activities

As one of the two state agencies responsible for regulating water reclamation, the State Water Resources Control Board (SWRCB) has been actively involved in addressing water reclamation issues. (The other regulatory agency is the Department of Health Services.) Water reclamation was made a major priority for the SWRCB in 1977 when it adopted the Policy and Action Plan for Water Reclamation in California.

A key aspect of its water reclamation program has been providing state and federal grant and loan funds for projects. Many, if not most, of the existing water reclamation projects have received some kind of state assistance. While water reclamation received attention in the past mainly as a means of cost-effective disposal of treated wastewater, in 1977 the SWRCB emphasized the role of water reclamation as a water supply alternative. At that time, grants were provided to about fifty agencies to develop facilities plans for water reclamation for water

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supply purposes. Since then, the SWRCB has provided \$212 million in grants or loans for design and construction to add 85,000 acre-feet of reclaimed water to the state's water supply, not including reclaimed water from state-funded pollution control projects:

- o Renewable Resources Investment Fund: 1 project, \$4.5 million, planned yield 3,600 acre-feet/year
- o State Assistance Program: 4 projects, \$11 million, planned yield 4,800 acre-feet/year
- o Water Reclamation Loan Program: 25 projects, \$64 million, planned yield 37,200 acre-feet/year
- o State Revolving Fund: 9 projects, \$132 million, planned yield 39,100 acre-feet/year

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Exercising its water rights authority, the SWRCB has invoked the state Water Code in two cases to declare that the use of potable water was a waste or unreasonable use of water because reclaimed water was available.

The SWRCB has been publishing reports on water reclamation since 1953. It has sponsored research, demonstration, and technology transfer studies:

- o The Pomona Virus Study that provided the basis for health department approval of less expensive tertiary treatment processes that have been applied throughout California
- o The Monterey Wastewater Reclamation Study for Agriculture over a period of 10 years that provided the basis for the Castroville irrigation project to help halt seawater contamination of groundwater
- o Water reclamation technology assessment reports on industrial cooling, food processing, and pulp and paper processing
- o Assessment report on use of reclaimed water for agriculture and a widely-used guidance manual on irrigation with reclaimed water.

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Jointly with DWR and DHS, the SWRCB has convened two panels of scientific experts to review the health aspects of groundwater recharge, as well as preparing a state-of-the-art report on the subject. It has provided leadership in establishing a procedure for analysis of health risk in the use of reclaimed water, which has assisted the DHS in revising regulations on water reclamation. It has provided other technical assistance to DHS in development of regulations.

The SWRCB routinely provides technical information to other agencies and the public and recommendations for legislation and state policy.

Permits to operate water reclamation projects are issued by the Regional Water Quality Control Boards, which also are responsible for monitoring project operations to ensure protection of public health and water quality.

We take exception to the last paragraph on page 4 that the SWRCB has not been vigorously pursuing application of the law. This paragraph apparently refers to Section 13550 of the Water Code. However, this is uncertain because the paragraph refers to the word "feasible," implying that it is in the Water Code, which it is not. Nevertheless, the SWRCB has decided two cases under this section, both in favor of water reclamation, and has investigated other cases that were never brought to a hearing. Four specific conditions are spelled out in the law, which must be evaluated by the SWRCB. Furthermore, the SWRCB must make a general determination that reclaimed water is available. In a given situation, either facilities must be in place or fairly detailed water reclamation planning must have occurred to have enough data to establish that reclaimed water could be made available that would meet the four conditions in the law and would otherwise be cost-effective and in the public interest. If the Department of Water Resources, or any other party, desires to bring to the attention of the SWRCB a potential case suitable for a hearing, the SWRCB will be resolute in enforcing this provision of the law.

The report cites the WaterReuse '93 Survey in stating that 380,000 acre-feet/year were being reused in 1993. You have received a copy of a letter from the Office of Water Recycling of the SWRCB expressing concern about the use of that number. An issue not addressed in either the '93 Survey or this report is how unplanned incidental reclamation is to be counted in the state goals for the years 2000 and 2010. We are inclined to feel that such reclamation should not be counted toward the goal.

It should be noted on page 4 that AB 1637 includes funds not only to replenish the SRF, but also for loans designated for water reclamation projects.

On page 5 it is stated that clear rights to wastewater is not apparent in the Water Code. In fact, the law appears to be quite clear for the situation described. Section 1210 states that the owner of a wastewater treatment plant has exclusive right to the reclaimed water as opposed to anyone who supplied the water discharged into the wastewater system. The only cloud in right occurs after effluent is discharged into a stream, at which time others may claim the right to divert the water downstream. While this uncertainty could be clarified in new legislation, the uncertainty of downstream rights is not a major issue hindering water reuse. Furthermore, it is our opinion that uncooperative wastewater agencies are not a significant problem in developing

water reclamation projects. Water purveyors should have the main responsibility in pursuing water reclamation projects and not only must be cooperative, but also should assume the lead.

On page 13 it is stated that recent amendments to the Water Code provide for the availability of subsidized loans for the construction of water reclamation facilities. We are not aware of any such legislation.

The report covers many issues related to water reclamation. In terms of helping the State Legislature to focus on problems central to meeting the goals in the law, the report needs a conclusion section. The report cites the WaterReuse '93 Survey in providing an optimistic projection of water reclamation. On the contrary, we feel that it will be very difficult to meet the goals. Funding is by far the greatest need if the goals are to be met, and this need should be stressed. The WaterReuse '93 Survey has a projection of \$2.0 billion to add 600,000 acre-feet/year. Based on the costs of projects we are familiar with, we project a need of between \$3 billion and \$4 billion for capital facilities to meet the 1,000,000 acre-feet/year goal, assuming that unplanned incidental reuse is not counted toward the goal. These estimates should be cited in the report. In all likelihood, to achieve the goal in the time frame in the law, substantial state financial assistance will be needed. A mechanism of state bonds or surcharges to obtain these funds will be required, either of which require legislative action. A conclusion would help the Legislature focus on its role in achieving the goals.

On pages 1 and 21 there appears to be a misunderstanding of the role of the SWRCB and some other entities regarding our participation in the authorship of this report. It is stated on page 21 that the Summit group played a key role in authoring and reviewing the report. However, the SWRCB, Department of Health Services, and California Conference of Directors of Environmental Health have not had a role other than as commenters.

We would be glad to discuss the report further with you. Please contact Mr. Lynn Johnson of the Office of Water Recycling at 227-4580.

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